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EST VIRGINIA

EST, GAME AND FISH LAWS

AND

FEDERAL LAWS

1913

J. A. VIQUESNEY, WARDEN
BELINGTON

TRIBUNE PRINTING CO., CHARLESTON, W. VA.

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APPENDIX

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Weeks-McLean Law. (Federal.)

Open Seasons under Weeks-McLean Law. (Federal.)

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FOREST, GAME AND FISH LAWS

Sec. 1. Forest, Game and Fish Warden—Appointment—Term of. office—Removal—Compensation and mileage—Chief deputy wardens—Appointment—Term of office—Compensation and mileage—Deputy wardens—Appointment—Term of office—Compensation—Ex officio deputy wardens—Compensation.

The governor shall between the first day of June and the first day of July, one thousand nine hundred and nine, appoint some person, a citizen of this state, whose term of office shall begin on the first day of July, one thousand nine hundred and nine, to the office of forest, game and fish warden. Said warden shall hold this office for four years and until his successor has been appointed and qualified, unless sooner removed for cause by the governor. He shall receive for his services the sum of eighteen hundred dollars per annum, to be paid out of the treasury, quarterly, after being duly audited; and shall be allowed mileage of three cents a mile while traveling by railroad or steamboat,

and ten cents a mile while traveling otherwise than by railroad or steamboat, for the distance necessarily traveled while actually in the discharge of his official duties as such warden. *Provided, however*, that the mileage expenses of said warden shall be reported quarterly under oath to the governor and approved by him; and *provided, further*, that such mileage expenses shall not, in any one year exceed five hundred dollars. Said warden shall devote all of his time to the discharge of the duties of his office, imposed upon him by law. Said warden shall appoint two persons who are citizens of this state and one of whom shall reside in the eastern section of the state, chief deputy wardens of forest, game and fish, said chief deputies shall hold their office at the pleasure of the warden appointing them. Said chief deputies shall each receive for their services the sum of nine hundred dollars a year, to be paid out of the treasury quarterly after being duly audited, and shall be allowed mileage of three cents a mile while traveling by railroad or steamboat, and ten cents a mile while traveling otherwise than by railroad or steamboat for the distance traveled for the purpose of performing the duties imposed upon them by law, and they shall devote all their time thereto, such mileage expenses of either of said chief deputies shall be reported quarterly under oath to the warden and approved by him, and for-

warded to the governor and approved by him; *provided, however*, that said mileage in any one year shall not exceed four hundred dollars to each chief deputy warden. The warden shall appoint such persons as he may deem fit, who are citizens of this state, to act as deputy wardens in the several counties of this state. Said deputy wardens shall hold their office at the pleasure of the forest, game and fish warden. The sheriffs, deputy sheriffs and constables in the several counties of this state shall be *ex-officio* deputy wardens therein, and the chiefs of police of the cities, towns and villages of this state shall also be *ex-officio* deputy wardens therein and their jurisdiction shall extend no further than their respective counties, cities, towns and villages. All said deputy wardens, either appointed or *ex-officio*, shall receive for their services one-half of the fines imposed by any justice or court having jurisdiction, and collected in each prosecution, instituted by any such deputy warden, and the other half of such fine shall be paid to forest, game and fish warden, who shall pay the same over to the treasurer of the state to be credited by him as other fines are credited; but no fees or moneys shall be paid any deputy for services rendered as such deputy warden, out of the treasury of this state, and in any prosecution under this chapter, section two of chapter thirty-six of the Code of 1899 and section 1159 of the Code of 1906, shall not apply to any warden. (Acts 1909, c. 60. Code Sec. 2759.)

Sec. 2. Same—General duties—Biennial reports—Examination of books and vouchers by state auditor.

The forest, game and fish warden shall have general charge of the following public matters, and necessary powers therefor. The collection and diffusion of such statistics, literatures and information as he may deem useful in regard to the protection of forests and the protection and propagation of game and fish, the publishing thereof, and the taking charge of and keeping all reports, books, papers and documents which shall, in the discharge of his duties hereunder, come into his possession and control, and the institution of all proper legal proceedings to enforce the provisions of law, now in force, or hereafter enacted, in reference to forest, game and fish. Said warden shall, on or before the first day of January, 1911, and biennially thereafter, submit to the governor, a detailed report showing what has been done by him during the preceding biennial period, the amount of all moneys received by him and from what sources, in detail, a complete inventory of all game and other property seized and sold and the amount received therefor and the amount of disbursements in detail. The books and vouchers of said warden shall be subject to examination by the auditor of the state at all times. (Acts 1909, c. 60. Code Sec. 2760.)

Sec. 3. Chief deputy wardens and deputy wardens—General powers and duties—Compromise or settlement of prosecutions—Punishment.

The chief deputy and deputy wardens shall act and be under the direction and supervision of said forest, game and fish warden. Said chief deputy and deputy wardens shall have authority, and it shall be their duty, to enforce the game, fish and forest laws of this state, now in force or hereafter enacted for the protection of forests and protection, preservation of game, fish and birds, and shall be immediately responsible to the warden, and shall report all matters under their jurisdiction whenever requested by him and receive instructions from him. It shall be unlawful for any deputy warden, either appointed or ex-officio to settle, compromise or adjust any prosecution under this chapter and to receive moneys from any violator or alleged violator of any of the provisions thereof, unless the same are moneys received in the payment of fines imposed in due process of law by a justice or court having jurisdiction of the offense charged, and if any such deputy warden shall receive any moneys from any such violator or alleged violator, either as such settlement and compromise or to prevent any prosecution therefor, such deputy warden shall be guilty of a felony and upon conviction thereof, shall be confined in the penitentiary not less than one

nor more than five years. (Acts 1909, c. 60. Code Sec. 2761.)

Sec. 4. Arrests for violations of game, fish or forest laws—Power to make—Neglect to cause offenders to be apprehended—Punishment.

The forest, game and fish warden and appointed deputy wardens shall have full power to execute and serve any warrant or process of law, issued by any justice of the peace or by any court having jurisdiction under the law, relating to game, fish, birds and forests in the same manner as any constable or sheriff might serve or execute such process, and may arrest on sight without a warrant, any person or persons, detected by them actually violating any of the provisions of the laws of this state relating to the game, fish, birds and forests, and may take such person or persons, so offending, before any court, or justice of the peace, having jurisdiction of the offense and make proper complaint before such court, or justice, which shall proceed with the case in the manner as provided by law. Any such appointed warden, who on receiving information from a reliable person of the violation of the game, fish, or forest laws, neglects or refuses to thoroughly investigate such alleged violation, and apprehend or attempt to apprehend the offender, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than

ten dollars nor more than fifty dollars for each offense. (Acts 1909, c. 60. Code Sec. 2762.)

Sec. 5. Seizure of fish, game or birds.

The warden and deputy wardens shall seize and take possession of, on sight and without process, any fish, game or birds found in the possession of any person or persons, or corporation which is so in possession contrary to law. (Acts 1909, c. 60. Code Sec. 2763.)

Sec. 6. Bonds of warden and chief deputy wardens.

The forest, game and fish warden and the chief deputy wardens shall each, before entering upon the discharge of their respective duties, execute a bond, the warden in the penalty of three thousand dollars and the chief deputies in the penalty of one thousand dollars with security therein to be approved by the governor, and conditioned for the faithful performance of their duties, and to account for and pay over all moneys and property coming into their hands due and belonging to the state, which said bonds, after having been approved by the governor, shall be deposited with the auditor. (Acts 1909, c. 60. Code Sec. 2767.)

Sec. 7. Depositing matter in stream deleterious to propagation of fish—Penalty.

It shall be unlawful for any person, firm or corporation, to throw in, or allow to enter, any stream or water course, in this state, saw-dust or any other matter deleterious to the propagation of fish. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor, and fined not less than twenty-five dollars, nor more than one hundred dollars for each and every such offense. (Acts 1903, c. 47. Code Sec. 2768.)

Sec. 8. Printing, blanks, stationery and postage for warden.

The forest, game and fish warden shall be allowed all necessary printing, printed blanks, stationery and postage; but before he shall incur any expense for printing he shall first make requisition therefor upon the governor, who, in his discretion, approving the same, shall issue his warrant to the warden for said printing, the cost and expenses therefor to be paid out of the treasury. (Acts 1909, c. 60. Code Sec. 2784.)

Sec. 9. Institution of proceedings for violations of game, fish, bird and forest laws —Employment of attorneys, when.

The forest, game and fish warden and deputy wardens may make complaint and

cause proceedings to be instituted against any person, or persons, or corporations, for the violation of any of the game, fish, bird and forest laws without the sanction of the prosecuting attorney of the county wherein such proceedings are instituted; and in all such cases they shall not be required to give security for costs. Any of said officers may also appear in any court of competent jurisdiction in this state, in any case for violation of any of the laws for the protection of forests, or the protection, preservation and propagation of game, fish and birds, and prosecute the same in the manner and with the same authority as the prrosecuting attorney of the county in which such proceedings are had. And in such cases they may in the event of the refusal or neglect of the prosecuting attorney to act, employ an attorney of their choice, and to such attorney, or to the prosecuting attorney if he shall act, there shall be taxed in the costs, upon conviction, a fee of ten dollars in such case. (Acts 1909, c. 60. Code Sec. 2785.)

Sec. 10. Searches and seizures—Powers and duties of warden and deputy wardens.

The forest, game and fish warden and deputy wardens shall have the power to search any person and examine any boat, vehicle, conveyance, express car, railroad car, fish box, fish basket, game bag or game coat, or any other receptacle in which game, birds or fish could be placed, concealed or conveyed,

whenever they have reason to believe that they will secure or discover evidence of a violation of the game and fish laws of this state; and any hindrance or interference, or attempt to hinder or interfere, with such search and examination, shall be prima facie evidence of a violation of the law by the person or persons who hinder or interfere, or attempt to hinder or interfere, with such search and examination. Said officer, or officers, shall, at any and all times, seize and take possession of any and all game, fish, birds, and animals which have been caught, taken or killed at any time, in any manner or for any purpose, or had in possession or under control or have been shipped, contrary to any of the laws of this state, such search and seizure may be made without warrant; and the warden or deputy wardens shall not be liable for false seizure of such birds, game or fish. (Acts 1909. c. 60. Code Sec. 2786.)

Sec. 11. Same—Issuance of search warrants—Sale of property seized.

That any justice or court having jurisdiction of the offense upon receiving information of probable cause for believing that any game, birds or fish, caught, taken, killed, had in possession, under control, or shipped, contrary to or in violation of any of the laws of this state, shall issue a search warrant, and cause a

search to be made in the manner provided by law, in any place, and to that end may cause any buildings, dwelling house, enclosure, or car to be entered forcibly, if necessary, and any apartment, chest, barlocker, refrigerator, crate, basket or package, broken open and the contents thereof examined by the forest, game and fish warden or deputy wardens. All game, fish or birds, seized by any of said officers, shall be sold under the direction of the justice or court before whom the offense is tried, or search warrant issued, and the proceeds of all sales shall be paid into the treasury of the state. (Acts 1909, c. 69. Code Sec. 2787.)

Sec. 12. Arrests, and searches and seizures.—Summoning aid.

Any of the officers herein, whose duty it is to enforce the game, fish, bird and forest laws of this state, shall have the same right and power as sheriffs to summon aid in making arrests, seizures, or executing any process; and any person, or persons, so summoned, and refusing to act shall be liable, upon conviction, to the same fines and penalties, the same as if summoned by a sheriff. Such arrest may be made on a Sunday, in which case the person, or persons, arrested shall be taken before a justice, having jurisdiction, and proceeded against as soon as may be on a week day following such arrest. (Acts 1909, c. 60. Code Sec. 2788.)

Sec. 13. Reports by deputy wardens, ex-officio wardens, justices and judges—Contents.

The appointed deputy wardens shall on the first of the months of February, June, September and December of each year make a report under oath to the forest, game and fish warden which reports shall show in detail the work done by them severally during the three months next preceding. The forest, game and fish warden shall furnish the deputy wardens all necessary blank forms and stationery for making said report. All such reports shall show an account of the suits commenced, the justice or court before whom such proceedings were had, the number and kinds of game, fish, birds and property seized, and what disposition was made of the same, the amounts of proceeds of sale, and the amount of money, if any, received by him for fines imposed, or from any other source provided for by this chapter. All ex-officio deputy wardens shall make a report to the forest, game and fish warden on the first days of February, June, September and December of each year if they have instituted any proceedings or collected any moneys under the provisions of this chapter during such preceding three months, and all deputy wardens shall within thirty days after its receipt pay over to the forest, game and fish warden the fines collected by him, and the bonds of all ex-officio wardens shall be lia-

ble for any such moneys received by them. All justices and judges before whose courts any case under this chapter comes shall on the first day of February, June, September, and December, of each year, if there has been before this court any case under this chapter, report to the state forest, game and fish warden all moneys collected by him and the status of all cases pending or started in his court. (Acts 1909, c. 60. Code Sec. 2789.)

Sec. 14. Use of ferrets in catching rabbits—Penalty.

It shall be unlawful for any person to have in his possession for the purpose of using, or to use a ferret for the purpose of catching rabbits or driving them from their burrows. Any person convicted of an offence under this section shall be fined not less than five nor more than twenty dollars for each offense. (As amended Acts 1897, c. 30. Code Sec. 2790.)

Sec. 15. False returns of moneys collected or disbursed—Punishment.

The forest, game and fish warden and deputy wardens, or any other officer who shall make any false return as to moneys collected or disbursed by him, as provided for in this chapter or does not pay over to the proper officer as provided in this chapter, moneys collected by him for fines

shall be deemed guilty of a felony, and upon conviction thereof shall be confined in the penitentiary not less than one year nor more than five years. (Acts 1909, c. 60. Code Sec. 2791.)

Sec. 16. Hindering, obstructing or interfering with warden or deputy wardens—Punishment.

Any person who hinders, obstructs or interferes with, or attempts to hinder, obstruct or interfere with, the forest, game and fish warden and deputy wardens in the discharge of any of their respective duties herein shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars, together with the costs of the prosecution, and in default of payment thereof shall be confined in the county jail until said fines and costs are paid; *provided, however,* that such imprisonment shall not exceed ninety days. (Acts 1909, c. 60. Code Sec. 2792.)

Sec. 17. Title to wild game, fish and birds to be in state.

The ownership of, and the title to, all wild game, wild birds, both resident and migratory, and all fishes in the state of West Virginia, are hereby declared to be in the state, and no such game, birds or fishes,

shall be taken or killed in any manner, or at any time, except the person so taking or killing the same shall consent that the title thereto shall be and remain in the state of West Virginia, for the purpose of regulating the use and disposition of the same after such taking or killing. The taking or killing of wild game, birds or fishes, at any time or in any manner or by any person, shall be deemed a consent of such person that the title thereto shall be and remain in the state, for the purpose of regulating the use or disposition of the same. (Acts 1909, c. 60. Code Sec. 2792a1.)

Sec. 18. License to hunt—How procured—License fees—To whom paid—Penalty for failure to produce license—Penalties for violation of section—Consent of guardian required for minors.

No person, not a citizen and resident of this state, shall at any time, hunt, pursue, kill or catch any wild game animals or wild game birds in this state without first having secured a license so to do, and then only during the respective periods when it shall be lawful to hunt such game animals and game birds. Such license shall be procured in the following manner, to-wit:

The applicant shall go before the county clerk of any county within this state and fill

out a blank application, stating his name, age, occupation or profession, weight, height, place of residence, color of hair, eyes and complexion; the application shall be subscribed in ink and sworn to by the applicant, said applicant making oath that his statements are correct and true to the best of his knowledge and belief, before the county clerk issuing said license; the applicant shall at the same time pay to the county clerk the sum of fifteen dollars as a license tax, and a fee of fifty cents to said clerk for issuing such license; *provided, however*, that any such non-resident may fill out said application and swear to the same before a notary public or any other official of any foreign state whose certificate is authorized to be accepted for the recordation of deeds to be recorded within this state, and which said official shall affix his official seal to his certificate, and said applicant shall then send the said application to the county clerk of any county within this state, together with the tax and fee hereinbefore provided for, and such clerk shall send said applicant such license.

Said license shall bear the seal of the county court of the county in which it was issued and shall be signed by the clerk. All such license tax shall be paid by the county clerk to the state treasurer on the first day of each month for the next month preceding and a report thereof be made to the forest, game and fish warden. Such license shall

entitle the person to whom it is issued to hunt and kill game in any county in this state at any time when it shall be lawful to hunt, pursue and kill such game; and no person to whom such license has been issued, shall be entitled to hunt, pursue or kill game in this state, without at the time of such hunting, pursuing or killing of game he shall have such license in his possession; and he shall exhibit the same to any officer of this state, or owner, tenant or lessee of any land on which such person or persons are hunting, on demand of such officer or person. All such licenses shall be good and valid in the county where issued for the period of one year next succeeding its issue. Any person required by law to have and claiming to hold a license to hunt in this state, having in his possession any gun or other hunting paraphernalia in such woods or fields, shall on failure to produce such license for inspection to any warden of this state, or owner or agent of the owner of such woods and fields, on demand, be deemed guilty of a misdemeanor and shall be punished on conviction as provided later in this section. All non-resident members of any club or organization owning or leasing a game preserve in this state, shall each be required to secure a hunters' license as hereinbefore provided for. Any person found guilty of violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall

be fined not less than twenty-five nor more than fifty dollars for each and every offense, in addition to the costs of the prosecution, and in addition thereto may be confined in the county jail for a period not exceeding thirty days, in the discretion of the justice or court trying the case and upon failure to pay any fine or costs, the person or persons so convicted, shall be confined in the county jail until such fine and costs are paid, but such imprisonment shall not exceed twenty days for any one offense. No hunters' license shall be issued to any minor under the age of fifteen years, without the consent in writing from the parent or guardian of such minor, such consent to be filed with the clerk of the county court issuing such license. (As amended Acts 1911, c. 47. Code Sec. 2793.)

Sec. 19. Protection of skunk—Penalty—Prosecution—Powers of Justices—Presumption of guilt.

It shall be unlawful for any person, at any time, to catch, kill or injure, or to pursue with intent to catch, kill or injure, the skunk or polecat, except in defense of property, in any county of this state; *provided*, that before this act shall go into effect it shall be ratified by a majority of the voters in any county of the state which desires its adoption; and upon the petition of one hundred or more voters of a county to the county

court thereof the said court shall submit the question of its adoption therein to the voters of that county to be voted upon at a general election to be held therein, and shall cause to be printed upon the ballots used in such election the words, "For the skunk law," and "Against the skunk law," and if a majority of the votes cast be in favor of said law then the said court shall declare the same to be the law of that county and enter the same of record.

And in any county where this act has been adopted, as herein provided, and it is desired at any time thereafter to repeal the same, in such county, it may be done in the same manner as is provided herein for the adoption of this act.

Any person violating this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars, nor more than fifty dollars, and may, at the discretion of the court or justice trying the case, be confined in jail not more than thirty days. Any justice of the peace, for the county in which the offense was committed, shall have concurrent jurisdiction of all offenses under this section. Any person found with any recently killed skunk or pole-cat skins in his possession shall be presumed to have killed the same. (As amended Acts 1903, c. 44. Code Sec. 2803.)

Sec. 20. Transfer or sale of hunting licenses—Punishment.

Any person who shall, at any time, alter or change in any manner, or loan, sell or transfer to another any license provided for in section nineteen of this chapter, or the person buying or borrowing such license, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty nor more than fifty dollars and in addition thereto may be confined in the county jail not more than thirty days. (Acts 1909, c. 60. Code Sec. 2803a1.)

Sec. 21. "Close season" and "close time" —"Open season" and "open time."

The words "close season," and "close time," shall mean the time or period during which it is unlawful to hunt, pursue, catch, shoot, wound, trap or destroy any bird or animal, or to fish or catch any fish, and the words "open season," and "open time," shall mean the open time or period during which it shall be lawful to take these animals, birds and fish, as specified and limited by law. (Acts 1909, c. 60. Code Sec. 2803a2.)

Sec. 22. Game animals and birds—What are.

For the purpose of this chapter the following are considered game animals, to-

wit: deer and squirrel. And the following shall be considered game birds, to-wit: the anatadae, commonly known as ducks, geese, swan and brant; the raillidae, commonly known as mud hens, rails, coots and gallinules; the limicolae, commonly known as shore birds plover, snipes, woodcock, tattlers, curlews, ortolan, sandpiper; and gallinae commonly known as wild turkey, ruffed grouse or pheasant, quail or bob white. (Acts 1909, c. 60. Code Sec. 2803a3.)

Sec. 23. Same—Buying, selling or having in possession or transporting or receiving for transportation certain animals, birds and fiish—Exceptions—Punishment.

It shall be unlawful for any person to buy, sell or have in possession any of the animals, wild fowl or birds mentioned in section twenty-two of this chapter, at any time when the killing, trapping, netting and snaring of such animals wild fowl or birds shall be unlawful, or which shall have been killed, trapped, netted or snared contrary to the provisions of this chapter; and it shall further be unlawful for any person or persons, firm or corporation, at any time, to purchase or offer to purchase or to sell or to expose for sale, or have in his, or their possession for the purpose of selling, any quail, ruffed grouse, or pheasant, wood cock, wild turkey, wild goose, swan, brant, wild ducks of any kind, plover, snipe, sand

piper, squirrel, deer or venison; trout of any species, salmon of any species, pike, bass or silver perch or any of the birds, fish or game prohibited to be caught or killed at any time by the provisions of this chapter, and it shall be unlawful for any person or persons, firm or corporation, or common carrier, to receive for transportation, or to transport carry or convey, any quail, ruffed grouse or pheasant, wood cock, wild turkey, wild geese, swan, brant, wild ducks of any kind, plover, snipe, sand piper, squirrel, deer or venison or game fishes, mentioned in this section that shall have been caught, snared, taken, trapped or killed at any time, within the limits of this state, knowing, or having reason to believe, the same had been sold, or to transport, carry or convey the same outside of this state for any purpose. *Provided*, that it shall be lawful to have any such game animals, birds or fishes in possession for a period not exceeding twenty days after the open season thereof is ended and the close season thereon has begun. Any person, or persons, firm or corporation, guilty of violating any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense, and the costs of the prosecution. And in default of the payment of such fine and costs shall be confined in the county jail until the same is paid, not to ex-

ceed, however, the period of sixty days. The selling, exposing for sale, having in possession for sale, transporting or carrying and conveying, contrary to the provisions of this section, of each and every animal, fish or bird mentioned in this section, shall constitute a separate offense. (Acts 1909, c. 60. Code Sec. 2803a4.)

Sec. 24. Hunting, etc., deer—Killing or having in possession deer, etc., for transportation outside state—Punishment.

No person shall hunt, chase, kill or wound any deer, from the first day of December until the fifteenth day of October following, of any year, except tame deer owned by the person killing the same; nor shall any one person kill more than two deer in any one season. No person, or persons, shall chase or hunt deer with dogs in this state at any time. No person shall at any time kill any fawn, doe or any deer other than bucks with horns or antlers over four inches in length, or have the fresh skin of any fawn in his possession. No person shall at any time, kill or have in his possession any deer, quail, pheasant or ruffed grouse, wild turkey squirrel or any part of the same, or game fishes, with the intention of sending or transporting the same or having the same sent or transported beyond the limits of this state. Any person violating any provision of this section shall be guilty of a misdemeanor and on convic-

tion thereof shall be fined not less than twenty-five nor more than fifty dollars for each and every deer unlawfully hunted, chased, wounded or killed, and for each fawn skin had in possession, and not less than twenty dollars nor more than fifty dollars for each and every quail, ruffed grouse or pheasant, wild turkey or any part of the same, for each and every game fish, and for each and every deer or part of deer, killed or had in possession with the intention of sending or transporting the same, or having the same sent or transported beyond the limits of this state. And in addition to the fine, or fines, prescribed in this section the person, or persons convicted may be confined in the county jail not to exceed sixty days for each and every offense; and upon default of the payment of the fine and costs, shall be confined in the county jail until the same are paid, but not to exceed a period of sixty days. (Acts 1909, c. 60. Code Sec. 2803a5.)

Sec. 25. Closed season for certain animals and birds—Limitation on number of animals and birds which may be killed in open season —Use of seine, net, bait, trap, etc., to catch certain birds—Penalties—Certificates permitting collection of birds, etc.

It shall be unlawful for any person to catch, kill or injure, or pursue with the intent to catch, kill or injure, any ruffed grouse or pheasant, or wild turkey between

the first day of December and the fifteenth day of October of the following year; or any quail or Virginia partridge between the first day of December and the first day of November following; nor any gray, black, red or fox squirrel between the first day of December and the thirty-first day of August, both inclusive, of the following year. Nor shall any person kill more than twelve quail or six ruffed grouse or two wild turkeys in any one day, nor more than ninety-six quail or twenty-five ruffed grouse or six wild turkeys in any one open season. No person shall kill any wild duck, wild goose or brant between the twentieth day of April and the first day of September; *provided*, that the wood duck shall not be killed at any time within this state; wood cock, plover, rail, ortolan or sand piper between the twentieth day of December and the fifteenth day of July following; or any snipe between the first day of March and the fifteenth day of October following.

It shall be unlawful for any person at any time to catch by seine, net, bait, trap or snare of any kind or device, any wild turkey, ruffed grouse or pheasant or quail.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense, and in the discretion of the justice or court trying the case, be imprisoned in the county jail for a

period not exceeding thirty days for each offense; and in default of the payment of the fine and costs, the person convicted be confined in the county jail for a period not exceeding thirty days unless such fine and costs be sooner paid. *Provided, however*, that the forest game and fish warden or deputy wardens or other persons, under the direction of the warden, may capture by any means any of the game birds or game animals to keep them alive for propagation purposes. *And provided, further*, that the warden may give written permission to any responsible person, as provided by section thirty-eight of this chapter. (Acts 1909, c. 60. Code Sec. 2803a7.)

Sec. 26. Use of seine, net, bait, trap, etc., to catch certain birds.

It shall be unlawful for any person at any time to catch, by seine, net, bait, trap or snare of any kind or device, any wild turkey, ruffed grouse or pheasant or quail. (Acts 1909, c.60. Code Sec. 2803a8.)

Sec. 27. Same — Punishment — Hunting, etc., on Sunday—Punishment.

It shall be unlawful to hunt, catch, kill, or injure or pursue with intent to hunt, catch, kill or injure, any wild animals or birds, or fish, on the first day of the week, commonly known as Sunday.

Any person violating any of the provisions

of this section or section twenty-six hereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than twenty-five dollars, and in default of the payment of fine and costs, be committed to the county jail for a period of not more than thirty days, unless said fine and costs are sooner paid. (Acts 1909, c. 60. Code Sec. 2803a9.)

Sec. 28. Prosecution for violations of this chapter—To be in name of state—Jurisdiction—Fee for prosecuting attorney.

All prosecutions under this chapter shall be in the name of the State of West Virginia, before any court or justice, having jurisdiction, and the justice shall have concurrent jurisdiction with the circuit and other courts in all misdemeanors, and in any case in which the prosecuting attorney appears, a fee of ten dollars shall be allowed him, to be taxed as a part of the costs of the case, and collected off the defendant, in case he is convicted. (Acts 1909, c. 60. Code Sec. 2803a10.)

Sec. 29. Same—Witnesses—Privilege and competency.

Every person called as a witness in any case for the violation of any of the provisions of this chapter, shall be compelled to testify fully; but his testimony shall not

be given in evidence against him in any prosecution for such offense; and no person against whom such witness shall so testify, shall be competent as a witness for the state in the prosecution against such witness for the same offense or matters to which said witness so testified nor for any violation of any provision of this chapter alleged to have been committed before the commencement of the prosecution in which he is examined as such witness. (Acts 1909, c. 60. Code Sec. 2803a11.)

Sec. 30. Same—Moneys collected—Disposition of.

All moneys collected and due the state, under and by virtue of the provisions of this chapter, shall be disposed of, as follows: The net proceeds of all fines collected from convictions of the violations of any section of this chapter, shall after the payment of the amounts fixed by this chapter to the proper deputy wardens and the costs as provided by law be paid into the state treasury and credited to the "school fund" of the state, as provided by the constitution; all other moneys due the state by virtue of any of the provisions of this chapter shall be paid into the state treasury and credited to the "forest, game and fish protective fund." (Acts 1909, c. 60. Code Sec. 2803a12.)

Sec. 31. Same—Requisitions and extradition.

In all cases where any person has been indicted for the violation of any of the provisions of this chapter, and has escaped or removed to another state, all costs of requisition and extradition papers and all other costs and expenses of securing and bringing such person back into this state, shall be charged as a part of the costs of prosecution against such person; and, if such costs of requisition and extradition papers and expenses cannot be secured from such person, they shall be paid out of the "forest, game and fish protective fund." (Acts 1909, c. 60. Code Sec. 2803a13.)

Sec. 32. Killing, catching, having in possession or selling or transporting certain birds—Selling or having in possession plumage, etc., of certain birds—Game birds defined.

That no person shall within the state of West Virginia kill or catch or have in his or her possession, living or dead, any wild bird other than a game bird; or purchase, offer or expose for sale, transport for sale, transport or ship within or without the state, any such wild bird after it has been killed or caught, except as permitted by this chapter. No part of the plumage, skin or body of any bird protected by this section shall be sold

or had in possession for sale, irrespective of whether said bird was captured or killed within or without the state. For the purpose of this chapter all the birds and species of birds named in section twenty-two of this chapter only shall be considered game birds. (Acts 1909, c. 60. Code Sec. 2803a14.)

Sec. 33. Taking, etc., nests or eggs of certain birds—Exceptions.

No person shall, within the state of West Virginia take or needlessly destroy or attempt to take or destroy the nest or eggs of any wild bird other than a game bird, or have such nest or eggs in his or her possession, except as permitted by this chapter. (Acts 1909, c. 60. Code Sec. 2803a15.)

Sec. 34. Transportation of certain birds.

No person or persons or any corporation acting as a common carrier, its officers, agents or servants, shall ship, carry, take or transport, either within or beyond the confines of the state, any resident or migratory wild non-game bird. (Acts 1909, c. 60. Code Sec. 2803a16.)

Sec. 35. Penalties for violations of sections 2803a14—2803a16.

Any person violating sections thirty-two, thirty-three and thirty-four shall be guilty of

a misdemeanor and upon conviction thereof shall be fined not less than ten dollars and may be confined in the county jail at the discretion of the court or justice for a period of not more than thirty days. (Acts 1909, c. 60. Code Sec. 2803a17.

Sec. 36. Taking birds, nests, or eggs for scientific purposes.

Sections thirty-two, thirty-three and thirty-four of this chapter shall not apply to any person holding a certificate giving the right to take birds, their nests, or eggs for scientific purposes only as provided for in section thirty-seven of this chapter. (Acts 1909, c. 60. Code Sec. 2803a18.)

Sec. 37. Same—Certificates to collect—To and by whom issued—Fee for—Taking birds, etc., for other than scientific purposes—Forfeiture of certificate and punisnment.

Certificate may be granted by the forest, game and fish warden to any properly accredited person of the age of fifteen years or upwards, permitting the holder thereof to collect birds, their nests, or eggs for scientific purposes only; the applicant for same must present to said officer written testimonials from two well-known ornithologists who must be residents of West Virginia, certifying to the good character, and fitness of said applicant to be

entrusted with such privilege; must pay said officer one dollar to defray the necessary expenses attending the granting of such certificate. On proof that the holder of such certificate has killed any bird or taken the nest of any bird for other than strictly scientific purposes, his certificate shall become void and he shall be liable to a fine not exceeding one hundred dollars or imprisonment not exceeding thirty days, or both, at the discretion of the court. (Acts 1909, c. 60. Code Sec. 2803a19.)

Sec. 38. Same—Certificates to collect—Expiration—Transfer.

The certificate authorized by section thirty-seven of this chapter shall expire on the thirty-first day of December of the year issued, and shall not be transferable. (Acts 1909, c. 60. Code Sec. 2803a20.)

Sec. 39. Birds not potected by chapter.

The English or European house sparrow, owls, hawks, eagles, crows and king fishers are not included among the birds protected by this chapter. (Acts 1909, c. 60. Code Sec. 2803a21.)

Sec. 40. Wild non-game birds as domestic pets.

Nothing in this chapter shall prevent a citizen of West Virginia from taking or

keeping any wild non-game bird in a cage as a domestic pet; *provided*, that such bird shall not be sold or exchanged, or offered for sale or exchange, or transported out of this state. (Acts 1909, c. 60. Code Sec. 2803a22.)

Sec. 41. Negligently shooting or killing human being or live stock while hunting—Punishment.

Whoever, while engaged in hunting or pursuing wild game or game birds, negligently or carelessly shoots or wounds or kills any human being, or any live stock, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not exceeding one thousand dollars, and in the discretion of the court trying the case, be confined in the county jail for a period of not exceeding one year. (Acts 1909, c. 60. Code Sec. 2803a23.)

Sec. 42. No open season for certain birds —Killing, etc.—Punishment.

There shall be no open season on the following named game birds: Hungarian partridge, Reeve's pheasant, English pheasant, Lady Amherst's pheasant, Chinese pheasant, caporcailzie or any other foreign game birds introduced into this state by the wardens or any person or persons, or associations. It shall be unlawful for any person to catch, kill or injure any of the species of game birds mentioned in this

section. Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars nor more than fifty dollars, and, in the discretion of the court or justice trying the case be confined in the county jail for a period of not more than sixty days; and upon default of the payment of fine and costs, he shall be confined in the county jail not less than twenty days, unless said fine and costs are sooner paid. Each bird shall constitute a separate offense. (Acts 1909, c. 60. Code Sec. 2803a24.)

Sec. 43. Fish—Closed season—Manner of taking—Restrictions on length of fish which may be taken—Fishing in private waters—Penalties.

It shall not be lawful for any person to catch or destroy any of the fish in the creeks or rivers in this state by means of a drag or other net, fish pots, weirs, traps, by sledging, shooting or other devices (except by hook and line) at any time; *provided, however*, that any person may set a trot line, the hooks on which shall not be less than two feet apart, and, that seines may be used in the Ohio River from the fifteenth day of November to the first day of March following, but each seine so used must be registered by the owner or user with the forest, game and fish warden and the size of mesh must be two inches from knot to knot. Nor shall it be

lawful for any person to catch and have in his possession any jack salmon, commonly called jack fish, or any white salmon of less than seven inches in length, or any pike of less than ten inches in length, or any black bass less than seven inches in length, or any trout less than five inches in length, or any fish caught out of season or caught in any manner prohibited by law. And all fish less than the length prescribed herein shall be returned to the water immediately with as little injury as possible. And the measurement of fish shall be from end of nose to center form of tail.

It shall be unlawful to take or destroy any jack salmon, (commonly called jack fish or white salmon) in any manner between the fifteenth day of April and the fifteenth day of June of each year; or to catch or destroy any trout or land-lock salmon in any manner between the first day of September and the first day of April of each year. It shall not be lawful for any person to catch any black bass, green bass, willow bass, rock bass, pike or pickerel, or wall eyed pike (commonly known as salmon) between the fifteenth day of April and the fifteenth day of June of each year; except that in the counties of Brooke, Hancock and Ohio the time shall be from April fifteenth to May twenty-ninth of each year; nor shall any person catch or kill any of said fishes or fish at any other time during the year, save only with a rod hook

and line; except, it shall be lawful to catch fish of the sucker variety known as suckers, carp, mullet, and red horse, by gig, spear, looping or in any other way at any time; it shall be unlawful to kill bass or any other game fish by spear, gig, shooting or skipping or jumping.

It shall not be lawful for any person to catch or destroy fish in any dam or pond the property of any person, except with the consent of the owner of such dam or pond, unless such dam or pond be in some of the rivers in this state. But nothing in this chapter shall be construed as to prevent the catching of minnows or other small fish, except salmon, bass, shad and trout by means of hand, or cast nets, to be used for angling or scientific purposes; nor to prevent the warden of the state or his deputies or any person with their or his consent from catching any fish at any time with nets or seins for the purpose of propagation or stocking other waters, nor to prevent any person from taking in any way fish from his private dam, spring or pond at any time.

Any person who shall knowingly wilfully let the water out of any pond mentioned herein with the intent to take or injure fish therein, shall be guilty of a misdemeanor and shall be punished, upon conviction, by imprisonment in the county jail not less than one month nor more than six months, or by a fine of not less than fifty nor more than two hun-

dred dollars, or by both fine and imprisonment.

The owners or those in control of lands or rights in land, in or bordering upon any pond designated in this act, shall have erected and maintained in a conspicuous place along these ponds when they are un-enclosed, a sign at least a foot square and which shall have thereon the name of the party in control and the words "Trespassers warned off under penalties of the law." Any person who shall wilfully and wrongfully tear down, deface or injure the boards provided for in this section shall be guilty of a misdemeanor and liable to a penalty as hereinafter provided.

Any person violating any provision of this section, except as otherwise herein provided, shall be guilty of a misdemeanor and for every conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars and may, at the discretion of the court or justice trying the case, be confined in the county jail not exceeding thirty days. (Acts 1909, c. 60. Code Sec. 2803a25.)

Sec. 44. Nets, traps, etc., for taking fish—Destruction—Use of seines—Possession of seines as prima facie evidence—Punishment—Building, etc., dams to obstruct passage of fish—Punishment—Investigation of violation of section.

It shall be lawful for any person at any time, to remove or destroy any nets, traps

or other devices placed in any creeks, runs or rivers within this state, except registered seines in the Ohio River, as provided for in this chapter, and the person or persons claiming ownership or possession of such nets, seines or other devices shall have no recourse at law against the party destroying the same.

It shall be unlawful for any person or persons to be found upon the creeks or small streams of this state where fish are taken with seines, (except minnow seines) in their possession and if so found, such possession shall be *prima facie* evidence that the same were used unlawfully. In all prosecutions under this act it shall be *prima facie* evidence sufficient on the part of the state to show that the defendant was found upon the creeks or small streams where fish are taken with such seine in his possession.

Any person violating any of the above provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall forfeit such net or seine (which net or seine shall be destroyed by order of the justice or court), and pay a fine of not less than ten dollars nor more than fifty dollars, or be confined in jail not exceeding thirty days.

And no person, firm or corporation, shall build, erect, keep or maintain any dam or anything in any river, creek or water course in this state, which shall in any way or manner prevent or obstruct the free and easy

passage of fish up or down such river, creek or other water course without placing, building or erecting on such dam or other thing, a good and sufficient ladder or way so planned or built as to allow all fish to easily ascend or descend the same; and said ladder or way shall be constructed upon plans and in a manner and at a place satisfactory to the forest, game and fish warden of the state of West Virginia. Any person, firm or corporation violating this provision shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars; and each week shall constitute a separate offense; *provided*, that any person, firm or corporation now maintaining or keeping any such dam or other thing, shall be allowed six months from the time this act shall take effect in which to comply therewith.

And it shall be the especial duty of said forest, game and fish warden, upon the information of the violation of this provision, to immediately investigate the same, and cause this provision to be fully carried out. (Acts 1909, c. 60. Code Sec. 2803a26.)

Sec. 45. Employment of persons to unlawfully take, etc., game, birds, or fish—Serving game, birds, etc., at hotels, etc.—Punishment.

It shall be unlawful for any person, firm or corporation to employ or hire in any way.

directly or indirectly or by the use of money or other thing of value, to induce or persuade any other person, firm or corporation to kill, catch or deliver to such first named or any other person, firm or corporation, any deer, wild turkey, quail, pheasant or ruffed grouse, or any other wild game or wild birds, or trout, bass, salmon or any other game fish, the sale of which game or fish is prohibited by this chapter, and the serving of any such birds, game or fish killed or caught in this state by any hotel restaurant or other licensed place where meals are furnished for pay, shall be deemed a sale of such birds, game or fish.

And it shall be unlawful for any person, firm or corporation to kill, catch or deliver for money or other thing of value, either directly or indirectly any such game, birds or fish.

Any person, firm or corporation violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than fifty dollars and may be confined in the county jail at the discretion of the court or justice for a period of not exceeding thirty days, and each animal, bird or fish so served, killed, caught or delivered shall constitute a separate offense. (Acts 1909, c. 60. Code Sec. 2803a27.)

Sec. 46. Use of explosives, drugs, or electricity to take fish—Prima facie evidence—Punishment.

It shall be unlawful for any person to kill or attempt to kill any fish by use of dynamite or any other explosive mixture, or by the use of poisonous drug substance, bait or food, or by the use of electricity, lime or other thing of like nature. And the placing of any such article in any stream, pond or lake, shall be deemed and taken to be *prima facie* proof of intention to violate this section.

Any person violating this section shall be guilty of a felony, and upon conviction thereof shall be confined in the penitentiary for a period not less than six months nor more than two years, and may at the discretion of the court be fined not less than fifty nor more than two hundred dollars. (Acts 1909, c. 60. Code Sec. 2803a28.)

Sec. 47. Sale or gift of explosives, etc., to take fish—Punishment.

It shall be unlawful for any person, firm or corporation to sell, give or furnish, directly or indirectly any dynamite or any other explosive or killing mixture or any poisonous drug, bait or food to any person, when such person, firm or corporation knows or has reason to believe that such dynamite or other explosive or killing

mixture or poisonous drug, bait or food are intended to be used for the purpose of killing fish. Any person, firm or corporation violating this section shall be guilty of a misdemeanor and upon conviction thereof, shall for each offense, be fined not less than twenty-five nor more than one hundred dollars, and may at the discretion of the court be confined in the county jail not exceeding thirty days. (Acts 1909, c. 60. Code Sec. 2803a29.)

Sec. 48. Shooting, hunting, fishing, fowling, camping, peeling trees, cutting timber, building fires, etc., on enclosed or improved lands of another without permission—Punishment—Arrest of violators.

It shall be unlawful for any person to shoot, hunt, fish or fowl upon the enclosed or improved lands of another person, or to camp, peel trees, cut trees or timber, build fires or do any other act or thing therein in connection with or auxiliary to shooting, hunting, fishing or fowling on the lands of another person without permission in writing from the owner, lessee or other person entitled to the possession of such lands, or the tenant or agents of such owner, lessee or person entitled to the possession thereof, duly authorized to give such written permission, and every person hunting fishing, shooting or fowling upon such lands shall have such written permission with him when so doing.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars, and may in the discretion of the court or justice, be confined in the county jail not more than thirty days; and if any person be convicted a third time of such offense, he shall be confined in the county jail for a period of not less than three nor more than thirty days in addition to any fine imposed, and in all cases he shall be confined in the county jail until the fine and costs are paid; *provided*, that such time shall not exceed thirty days. It shall be lawful for the owner, lessee, or the person entitled to the possession of such lands or the agent thereof to arrest any such person found violating this section and immediately take him before a justice of the peace for trial, and such owner, lessee, person or agent, are hereby vested with all the powers and rights of a deputy game warden for such purpose; and it is hereby made the duty of the warden and all deputies to see that this section is enforced; if requested so to do by such owner, lessee, person or agent but not otherwise. (As amended Acts 1911, c. 47. Code Sec. 2803a30.)

Sec. 49. Shooting across public road, or near schoolhouse, or on lands of another appurtenant to or near occupied dwelling—Punishment.

It shall be unlawful for any person to shoot or discharge any fire arms in or across any public road in this state at any time or within four hundred feet of any school house, or shoot or discharge any fire-arms on the lands of another on any lawn or orchard or on any pleasure ground or other ground which is directly appurtenant to or within six hundred feet of any occupied dwelling house. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars, or at the discretion of the court or justice, imprisoned not more than thirty days. (Acts 1909, c. 60. Code Sec. 2803a31.)

Sec. 50. Forest fires—Fire warden—Deputy fire wardens—Powers and duties—Hiring volunteers or summoning assistance to extinguish fires.

The forest, game and fish warden shall be ex-officio fire warden of the state of West Virginia, and all deputy wardens shall also be deputy fire wardens for their respective counties in which each may reside. In case of fire in or threatening to forest or woodland, the deputy fire wardens

of the county, wherein such fire is, shall upon receiving notice thereof, forthwith attend and use all necessary means to confine and extinguish the same. He may destroy fences plough land, or, in an emergency, set back-fires to check fire. He may hire volunteers or summon any resident of his county to assist in putting out fires. Any person summoned, who is physically able and refuses to assist, shall forfeit the sum of ten dollars as a penalty therefor. An action of trespass shall not lie against persons crossing or working upon lands of another to extinguish fire. In case a forest fire burn over more than one acre of land the deputy fire warden of the county in which it occurs, shall make report thereof to the warden, giving the area burned over, the quantity of timber, wood, logs, bark or other forest product, and of fences, bridges and buildings destroyed, with an estimate of the value thereof. He also shall report the cause of such fire and the means used and cost expended in putting it out. (Acts 1909, c. 60. Code Sec. 2803a32.)

Sec. 51. Same—Deputy fire wardens—Compensation.

Deputy wardens shall receive the sum of two dollars per day for the time actually employed at forest fires and each county court may fix the price to be paid per day, not exceeding two dollars, for services of laborers at forest fires in their

respective counties, and serve notice thereof on the warden and the deputy wardens, resident in such county. All services rendered at forest fires shall be a charge against the county, and each deputy warden shall render within twenty days after such fire to the county court thereof a sworn statement of the time used by him at such fire, with the location of the same and the names of all persons hired or summoned by him, who assisted him thereat, together with the time each worked, and the county court shall pay such deputy warden and assistants out of the county funds, after it has examined such reports and is satisfied with the correctness thereof. (Acts 1909, c. 60. Code Sec. 2803a33.)

Sec. 52. Same—Negligent building or use of or failure to extinguish—Punishment.

Whoever by himself, or by his servants, agents, or guide, or as the servant, agent or guide of any other person, shall build any fire, or use an abandoned fire in a field, public or private road, or adjacent to, or in any woods or forest in this state, shall, before leaving such fire, totally extinguish the same, and upon failure to do so, such person, or persons, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars and the costs of the prosecution and upon default in paying said fine and costs, shall be confined in

the county jail not more than ninety days unless said fine and costs be sooner paid. If any person, or persons, negligently set on fire, any woods, fields or lands within this state, so as thereby to occasion loss, damage or injury to any other person, he shall be guilty of a misdeamenor, and on conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars, and in the discretion of the justice or court trying the case, be imprisoned in the county jail not to exceed one year, and upon default in payment of the fine and costs, he shall be imprisoned in the county jail not to exceed six months, and if any person or persons wilfully set on fire any woods, fields or lands within this state, not his own, so as to thereby occasion damage or injury to any other person, he shall be guilty of a felony, and on conviction thereof shall be confined in the penitentiary not less than one nor more than two years. (Acts 1909 c. 60. Code Sec. 2803a34.)

Sec. 53. Removal of inflammable material from railroad rights of way—Spark extinguishers on engines—Prevention of escape of fire from engine ash pans and furnaces—Punishment for violation of section.

Every railroad company shall, on such part of its road as passes through forest lands or lands subject to fires from any cause, cut and remove from its right of

way along such lands, at least twice a year, all grass, brush and other inflammable materials, and employ in seasons of drought and before vegetation has revived in the spring, sufficient trackmen to promptly put out fires on its rights of way; provide locomotives thereon with netting of steel or iron wire so constructed as to give the best practicable protection against the escape of fire and sparks from the smoke stacks thereof, and adequate devices to prevent the escape of fire from ash pans and furnaces which shall be used on such locomotives.

No railroad company or employee thereof shall deposit fire coals or ashes on its track or right of way near such lands. In case of fire on its own or neighboring lands, the railroad company shall use all practicable means to put it out. Engineers, conductors or trainmen discovering or knowing of fires in fences or other material along or near the right of way of the railroad in such lands shall report the same at the first station to the station agent, and such station agent shall forthwith notify the nearest fire warden and use all necessary means to extinguish the same. And any officer or employee of a railroad company violating any provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not less than twenty nor more than two hun

dred dollars. (Acts 1909, c. 60. Code Sec. 2803a35.)

Sec. 54. Forest fires—Recovery of expense of extinguishment—Recovery of damages.

The forest, game and fish warden in the name of the county in which any forest fire has occurred, and which has been extinguished or suppressed by his efforts, shall recover from the person or persons, firm or corporation, giving origin to such fire, the amount so expended in extinguishing said fire and the costs thereof, and the same shall not bar the rights of damage between the parties thereto. (Acts 1909, c. 60. Code Sec. 2803a36.)

Sec. 55. Maliciously setting fire to woods, fences, etc.—Punishment—Liability for damages.

If any person unlawfully and maliciously set fire to any woods, fence, grass, straw or other thing capable of spreading fire on lands, he shall be fined not exceeding one hundred dollars, and confined in jail not less than two nor more than twelve months, and shall moreover be liable to any person injured thereby, or in consequence thereof, for double the amount of damages sustained by such person. (Acts 1882, c. 148. Code Sec. 4242.)

Sec. 56. Unlawful setting fire to woods, fences, etc.—Punishment—Liability for damages.

If any of the acts mentioned in the next preceding section be done unlawfully but not wilfully or maliciously, the person guilty thereof shall be fined not exceeding fifty dollars, and shall moreover be liable to any person injured thereby, or in consequence thereof, for all such damages as may be sustained by such person. (Acts 1882, c. 148. Code Sec. 4243.)

Sec. 57. Elk—No open season—Punishment for violations of section.

No person shall hunt, chase, wound or kill any elk in this state at any time for a period of fifteen years from and after the passage of this Act, provided that the owner of any elk, which shall be kept in any park or field, sufficiently enclosed to reasonably prevent their escape thereform, shall have the right to kill any elk of his own; provided further that such owner may pursue, recapture or kill any of his elk that may escape from his enclosure.

Any person violating any provision of this act shall be guilty of a felony, and on conviction thereof shall be confined in the penitentiary not less than six months nor more than five years. (Acts 1913. Passed February 21, 1913.)

APPENDIX

FEDERAL LAW

(Lacey Act.)

(From the Criminal Code of the United States.)

Sec. 241. The importation into the United States, or any Territory or District thereof, of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of Agriculture may from time to time declare to be injurious to the interests of agriculture or horticulture, is hereby prohibited; and all such birds and animals shall upon arrival at any port of the United States be destroyed or returned at the expense of the owner. No person shall import into the United States or into any Territory or District thereof, any foreign wild animal or bird, except under special permit from the Secretary of Agriculture: *Provided*, That nothing in this section shall restrict the importation of natural history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or

such other birds as the Secretary of Agriculture may designate. The Secretary of the Treasury is hereby authorized to make regulations for carrying into effect the provisions of this section.

Sec. 242. It shall be unlawful for any person to deliver to any common carrier for transportation, or for any common carrier to transport from any State, Territory or District of the United States, to any other State, Territory, or District thereof any foreign animals or birds, the importation of which is prohibited, or the dead bodies or parts thereof of any wild animals or birds, where such animals or birds have been killed or shipped in violation of the laws of the State, Territory, or District in which the same were killed, or from which they were shipped: *Provided*, That nothing herein shall prevent the transportation of any dead birds or animals killed during the season when the same may be lawfully captured, and the export of which is not prohibited by law in the State, Territory, or District in which the same are captured or killed: *Provided further*, That nothing herein shall prevent the importation, transportation, or sale of birds or bird plumage manufactured from the feathers of barnyard fowls.

Sec. 243. All packages containing the dead bodies, or the plumage or parts thereof, of game animals, or game or other wild birds, when shipped in interstate or foreign

commerce, shall be plainly and clearly marked, so that the name and address of the shipper, and the nature of the contents, may be readily ascertained on an inspection of the outside of such package.

Sec. 244. For each evasion or violation of any provision of the three sections last preceding, the shipper shall be fined not more than two hundred dollars; the consignee knowingly receiving such articles so shipped and transported in violation of said sections shall be fined not more than two hundred dollars; and the carrier knowingly carrying or transporting the same in violation of said sections shall be fined not more than two hundred dollars.

Federal Law for the Protection of Migratory Birds.

(Weeks-McLean Law.)

(Extract from an Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, All wild geese, wild swans, brant wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

The Department of Agriculture is hereby authorized and directed to adopt suitable regulations to give effect to the previous paragraph by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and

line of migratory flight, thereby enabling the department to select and designate suitable districts for different portions of the country, and it shall be unlawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law during said closed seasons and any person who shall violate any of the provisions or regulations of this law for the protection of migratory birds shall be guilty of a misdemeanor and shall be fined not more than $100 or imprisoned not more than ninety days, or both, in the discretion of the court.

The Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption shall cause the same to be engrossed and submitted to the President f the United States for approval: *Provided, however*, That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of nonmigratory game or other birds resident and breeding within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute.

There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated for the purpose of carrying out these provisions, the sum of $10,000.

Approved, March 4, 1913.

Federal Protection of certain Migratory Birds in West Virginia as adopted by the U. S. Department of Agriculture under the Weeks-McLean Law.

OPEN SEASONS.

Effective October 1, 1913.

Woodcock .....July 15 to December 20
Black-breasted and Golden
Plover .....July 15 to December 16.
Yellow Legs, Wilson or
Jacksnipe .....October 15 to December 16.
Rail .....July 15 to December 1.
Duck .....Sept. 1 to January 16.
Goose .....Sept. 1 to January 16.
Wood duck—Closed season until Sept. 1, 1918.

SEE PAGE 64

All hunting prohibited on Sunday.

All hunting of migratory birds between sunset and sunrise prohibited.

INFORMATION ON FOREST, GAME AND FISH LAWS.

When, how and where you may Hunt and Fish.

OPEN SEASON.

GAME

DEER—(with horns over four inches long) Oct. 15th to Dec. 1st. SQUIRREL—

(Gray, Black, Red, Fox) Sept. 1st, to Dec. 1st. RABBIT and all fur bearing animals, no closed season. SKUNK—is protected in counties where protection has been approved by majority of voters. It is unlawful to pursue deer with dogs at any time. ELK—No Open Season.

BIRDS.

QUAIL—(Virginia Partridge) Nov. 1st, to Dec. 1st. RUFFED GROUSE—(Pheasant) Wild Turkey, Oct. 15th, to Dec. 1st. PLOVER, SAND PIPER, WOOD COCK, REED BIRD, RAIL, (Ortolan) July 15th, to Dec. 20th. SNIPE—Oct. 15th, to March 1st. DUCK—(except wood duck) GOOSE, BRANT, Sept. 1st to April 20th. Foreign game birds, wood duck, no open season. English Sparrows, Owls, Hawks, Eagles, Crows and King Fishers, may be killed at any time; all other non-game birds are protected at all times.

BAG LIMITS—12 quail, 6 ruffed grouse, 2 wild turkeys in a day, or 96 quail, 25 ruffed grouse, 6 wild turkeys in a season.

FISH.

JACK SALMON (commonly called Jack fish or white salmon) June 15th, to April 15th. TROUT or landlock salmon, April 1st to Sept 1st. Black, green, willow and rock bass, pike or pickerel, June 15th, to April 15th. In Brooke, Hancock and Ohio counties,

the open season on the last named fish is from May 29th to April 15th.

UNLAWFUL

To hunt or fish on Sunday; to hunt or fish on the enclosed or improved lands of another, without written permission; to sell or buy, or transport out of the State, or serve at hotel or restaurant—protected birds, game or fish; to maintain a dam or other thing which obstructs the easy passage of fish up or down the stream, without a suitable fishway; to allow to enter any stream of water, saw-dust or other matter deleterious to fish; to catch fish, kill birds or game out of season; to use seines, except in the Ohio river, when properly registered; to kill or catch game fish, except with rod, hook and line, or by trot line; to set out forest fires; to catch fish under size, as prescribed by law; to catch by seine, net, bait, trap or snare, or any kind of device—wild turkey, ruffed grouse or quail; to shoot or discharge fire arms across any public road, or within 400 feet of any school house, or on the lands of another—within 600 feet of an occupied dwelling house; to hunt without a license, unless you are a citizen of West Virginia. To carelessly wound or kill any human being, or any live stock constitutes an offense punishable by a fine not to exceed one thousand dollars, and a jail sentence of one year.

FELONY.

To use any dynamite, or other explosive mixtures for the purpose of killing fish. To hunt, chase, wound or kill any elk in this state prior to February 21, 1928.

ERRATA

Since the publication of this book the following changes have been made in the Federal Migratory Bird Law.

OPEN SEASONS

Effective October 1, 1913

Brant, ducks and geese Sept. 1 to Dec. 16
Rails, coots and gallinules Sept. 1 to Dec. 1
Woodcock.....Oct. 1 to Dec. 1
Black-breasted and golden plover, jacksnipe or Wilson snipe, greater and lesser yellow legs.....Sept. 1 to Dec. 16
Wood duck--Closed season until Sept. 1, 1918
All hunting prohibited on Sunday.
All hunting of migratory birds between sunset and sunrise prohibited.

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